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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,030	12/08/2003	David Pretzsch	11590.002	2689

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EXAMINER

RINEHART, KENNETH

ART UNIT PAPER NUMBER

3749

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/729,030

Applicant(s)

PRETZSCH ET AL. 

Examiner

Kenneth B Rinehart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the a first material fill opening, a third opening in said prefill chamber such that said second and said third openings are aligned, a first door over said third opening, a second door that automatically opens, plunger forces material through said second and third openings, a portion of said prefill chamber passes through said first opening when said prefilled chamber is mounted on aid lid, waited end must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, recites the limitation "said upper portion" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "said lid" in line 6. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-7, 10-14, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brennan.

Brennan shows a burn container for holding materials (1, fig.), a first material fill opening near an upper end portion of said burn container (17, fig), wherein said burn container is closed except for an exhaust (10, fig.), an air plenum (16, fig.), a pre-fill chamber adjacent a second opening (4, 3, fig.), said second opening in said lid (3, fig.), a third opening (6, fig.), said third opening in said pre-fill chamber such that said second and said third openings are aligned in sealing relationship when said pre-fill chamber is mounted on said incinerator such that

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combustible material can pass from said pre-fill chamber through said second and third opening into the upper end portion of said burn container while said lid is closed (fig.), the burn container has a cylindrical Shape (fig.), said pre-fill chamber is removable (fig.) and includes a first door over said third opening (6, fig. ) and a plunger to force material from said pre-fill chamber through said third opening (7, fig.), a pre-fill chamber (4, fig.) mountable adjacent a first opening in said lid (2, fig.), a second opening, said second opening in said pre-fill chamber such that said first and second opening are aligned in sealing relationship when said pre-fill chamber is mounted on said incinerator lid such that combustible material can pass from said pre-fill chamber through said first and second opening (3, fig.), a portion of said pre-fill chamber passes through said first opening when said pre-fill chamber is mounted on said lid (8, fig. ), said pre-fill chamber includes a plunger operable to force material from said pre-fill chamber through said second opening (7, fig.), said second opening is covered by a hinged door (8, fig. ), a material container (4, fig.), an opening covered by a door (8, fig.), a plunger operable to force open said door and to force material contained in said container through said opening (7, fig.), means to position said pre-fill chamber on a lid of an incinerator (2, fig.), means allowing said pre-fill chamber to be filled with a combustible material (6, fig.), starting a fire within a container (1, fig.), closing said container with a lid (2, fig.), filling a pre-fill chamber with combustible material (4, fig.), aligning at Least a portion of said pre-fill chamber with an opening on said lid (fig.), pushing from said pre-fill chamber said combustible material through said opening and into said fire (7, fig.), wherein said step of starting said fire

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includes a step of supplying air to said fire through a plenum (16, fig.), said step of aligning includes sealing said portion of said pre-fill chamber against said lid (fig.), a material container (4, fig.).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan in view of Fontaine. Brennan discloses a burn container for holding combustible materials (1, fig.), a first material fill opening near an upward portion of said burn container (17, fig), a lid covering said first material fill opening such that said burn container is closed except for an exhaust and a controlled air plenum (17, 10, 16, fig.), a pre-fill chamber mounted adjacent a second opening in said upper portion of said burn container (4, 3, fig.), a third opening in said pre-fill chamber (6, fig.) such that said second and said third openings are aligned when said pre-fill chamber is mounted on said incinerator such that combustible material can pass from said pre-fill chamber through said second and third openings into the upper portion of said burn container while said lid is closed (fig.), said pre-fill chamber includes a door over said third opening and a manual plunger to force material from said pre-fill chamber through said third opening (6, 7, fig.), said door is normally held closed but is forced open when said manual plunger forces material through said third opening (7, 6, fig.), a burn container for holding combustible materials (1, fig.), a first material fill opening near an upward portion of said burn container (17, fig.), a lid

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covering said first material fill opening such that said burn container is closed except for an exhaust and a controlled air plenum (17, 10, 16, fig.), a second opening near an upward portion of said burn container (3, fig.), a closure covering said second opening, wherein the closure automatically closes when material is no longer being inserted into the second opening (8, fig.), the closure having a waited end (8, fig.), the closure plate is pivotally attached to an edge disposed adjacent to the second opening defining a pivot point wherein the closure plate pivots on the pivot point to an open position or a closed position (8, fig.). Brennan discloses applicant's invention substantially as claimed with the exception of a blower motor controlling a flow of air into said first container through said air plenum, said burn container has a barrel shape. Fontaine teaches a blower motor controlling a flow of air into said first container through said air plenum (44, fig. 1) for the purpose of supplying primary air. It would have been obvious to one of ordinary skill in the art to modify Brennan by including a blower motor controlling a flow of air into said first container through said air plenum as taught by Fontaine for the purpose of supplying primary air so that the incinerator can burn a greater quantity of waste and thus improve the productivity of the apparatus. Brennan in view of Fontaine discloses applicant's invention substantially as claimed with the exception of said burn container has a barrel shape. At the time the invention was made it would have been an obvious matter of design choice to a person of ordinary skill in the art to have said burn container has a barrel shape because applicant has not disclosed that the shape of the container provides an advantage, is used for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the shape of Brennan or the claimed shape because both shapes perform the same function of combustion equally well.

*Allowable Subject Matter*

Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to apparatus in general: Stookey (3785304), Trott (3,791,319).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B Rinehart whose telephone number is 703-308-1722. The examiner can normally be reached on 7:30 -4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KBR

  
KENNETH RINEHART  
PRIMARY EXAMINER